

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED

Jan 13 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

United States of America

v.

Levonta FARLEY

Case No.3:21-mj-70027 MAG

*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 29, 2020 in the county of San Francisco in the
Northern District of California, the defendant(s) violated:*Code Section*

18 U.S.C. § 922(g)(1)

Offense Description

Felon in Possession of Firearm

Max. Penalties: 10 years imprisonment; \$250,000 fine; 3 years supervised
release; \$100 special assessment; forfeiture

This criminal complaint is based on these facts:

See affidavit of FBI Special Agent Jacob D. Millspaugh

☒ Continued on the attached sheet./s/ Jacob Millspaugh
via telephone

Approved as to form

AUSA Lina Peng*Complainant's signature*

FBI SA Jacob D. Millspaugh

Printed name and title

Sworn to before me by telephone.

Date: 1/12/2021City and state: San Francisco, CA*Judge's signature*

Hon. Alex G. Tse, United States Magistrate Judge

Printed name and title

Print

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**AFFIDAVIT OF JACOB D. MILLSPAUGH
IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT**

I, JACOB D. MILLSPAUGH, Special Agent of the United States Department of Justice, Federal Bureau of Investigation, being duly sworn, hereby depose and say:

I. INTRODUCTION

1. I am a Special Agent (SA) United States Department of Justice, Federal Bureau of Investigation (FBI), and have been so employed since September 2004. During this time, I have investigated, among other things, violations of the federal firearms and narcotics laws, as well as crimes of violence and gang-related crimes. I have participated in the execution of search warrants and criminal arrests; and have received training in, among other things, criminal procedure, search and seizure, firearms and narcotics investigations, and the identification and investigation of organized gangs. I have received training at the FBI Academy in Quantico, Virginia, including training on violent street gangs, criminal case management, informant development, Title III investigations and the identification, use, packaging and sales of controlled substances. My training and experience is based on my formalized training, knowledge cultivated from case work, and by drawing on knowledge of other agents and officers with federal, state, and local agencies.

2. The facts stated in this affidavit are based on my personal knowledge, on my review of reports prepared by other law enforcement officers and records prepared by others, and on conversations I have had with other law enforcement officers and witnesses involved in this investigation. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of a Complaint, it does not set forth each and every fact that I, or others, have learned during the course of the investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause for the Complaint sought herein. Unless otherwise indicated, where actions, conversations, and statements of others are related herein, they are related in substance and in part.

II. PURPOSE OF THIS AFFIDAVIT AND RELEVANT LAW

3. This affidavit is being submitted in support of a criminal complaint charging Levonta FARLEY, with a violation 18 U.S.C. § 922(g)(1) (felon in possession of a firearm).

4. Title 18, United States Codes, Section 922(g)(1) prohibits a person who has been convicted of a felony from possessing a firearm. The elements of that offense are as follows:

- a. The defendant knowingly possessed the firearm;
- b. The firearm had been shipped or transported from one state to another and/or between a foreign nation and the United States; and
- c. At the time the defendant possessed the firearm, the defendant knew that he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

III. FACTS ESTABLISHING PROBABLE CAUSE

5. As reflected in California Highway Patrol (CHP) incident report number 383/2020-1552, Levonta FARLEY was identified as being in possession of a firearm on or about November 29, 2020. On that date, at approximately 12:32 PM, CHP Officers were on patrol in a fully marked CHP patrol vehicle on US-101 in San Francisco, California. While on patrol, the Officers observed a gray BMW sedan driving dangerously near the US-101 North and I-80 East split. The Officers pursued the BMW and activated their patrol vehicle's emergency lights to initiate an enforcement stop. As the BMW approached the 9th Street exit, it swerved back onto US-101 and made several dangerous maneuvers to evade the Officers. For safety reasons, the Officers, discontinued their pursuit of the BMW due to known heavy vehicular and pedestrian traffic ahead.

6. After discontinuing the pursuit, the Officers lost sight of the BMW but continued driving on US-101 north. As the Officers continued north on US-101, they observed a gray vehicle making sudden lane changes through heavy traffic. The gray vehicle then collided with multiple vehicles and stopped on the right shoulder of the number three lane and next to the guardrail of the elevated section of US-101. As the Officers approached the collision, they recognized the gray vehicle as the BMW they had just pursued. They also observed a black male adult (later determined to be Levonta FARLEY), wearing a dark beanie, blue jacket, and black pants, exit the driver's door of the BMW. After exiting the BMW, the subject then jumped over the guard rail of the right shoulder was then seen climbing down a pole that ran down to 13th Street directly below. While the subject was climbing, one Officer got a good look at the subject and was able to see that he had facial hair and gold earrings. The subject was last seen making a right onto 12th Street, and was ultimately not located that day. The Officers did not observe anyone else inside of the BMW.

7. The Officers conducted a records query of the BMW and learned that the

registered owner of the BMW was Levonta FARLEY. The Officer who got a good look at the subject positively identified FARLEY from a photograph of FARLEY on file with the California Department of Motor Vehicles.

8. A search of the BMW revealed a loaded black handgun in the driver's side floorboard and eight clear plastic bags containing a large amount of suspected marijuana. Photographs taken by CHP Officers at the scene and of the recovered firearm are below.



9. The handgun was a Glock 26, 9mm, semi-automatic pistol, serial number ZPE127, with a 31-round extended magazine. The magazine was loaded with 17 9mm rounds of ammunition and one round was located in the chamber of the firearm. The rounds of ammunition loaded in the firearm and magazine were later determined to be from various ammunition manufacturers, including Winchester, Speer, Federal, Blazer, Remington Peters, CBC and NNY87.

10. I reviewed criminal history records for FARLEY, which show that, prior to November 29, 2020, FARLEY had received at least one felony conviction punishable by over one year in prison, including that FARLEY had received a two year sentence in 2017 for a felony violation of California Penal Code 459 for Burglary in the Second Degree. Based on my review of his criminal history records, I believe that FARLEY knew he had been convicted of a crime punishable by a terms of imprisonment exceeding one year at the time he possessed the Glock firearm.

11. The Glock firearm recovered was stamped with "Made in Austria" and "Glock

Inc., Smyrna, GA.” on the receiver. Based on my training and experience, I know that Glock firearms are made in Austria and imported into the United States by Glock Inc. located in Smyrna, Georgia. Additionally, photographs of the Glock were provided to Bureau of Alcohol Tobacco Firearms and Explosives (ATF) SA Daniel Garza. SA Garza has testified in federal court as a firearms interstate nexus expert. SA Garza indicated to me that the firearm was not manufactured in the state of California. Based on this information, I believe that the firearm travelled in and affected interstate and/or foreign commerce.

IV. REQUEST TO SEAL AFFIDAVIT, CRIMINAL COMPLAINT, AND ARREST WARRANT

12. Based on my training and experience, the disclosure of the existence of this affidavit, the complaint, the arrest warrant, and related documents may cause FARLEY or other co-conspirators, known and unknown at this time, to flee, to destroy evidence or to conceal ongoing criminal activity, jeopardizing the progress of the ongoing investigation. I therefore request that the Court seal this affidavit, the complaint, the arrest warrant, and related documents.

V. CONCLUSION

13. Based on the foregoing facts and my training and experience, I believe there is probable cause to believe that on or about November 29, 2020, in the Northern District of California, Levonta FARLEY violated 18 U.S.C. § 922(g)(1) – Felon in Possession of a Firearm, namely by possessing a Glock handgun bearing serial number ZPE127, along with an extended magazine and ammunition.

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14. I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

/s/ Jacob Millspaugh
via telephone

JACOB D. MILLSPAUGH
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me via telephone
me this 12th day of January, 2021 pursuant to Fed. R. Crim. P. 4.1.



HON. ALEX G. TSE
UNITED STATES MAGISTRATE JUDGE